

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROWENA WAGNER,  
Plaintiff

v.

Case No. 04-264 Erie

CRAWFORD CENTRAL SCHOOL DISTRICT;  
CRAWFORD CENTRAL SCHOOL BOARD;  
MICHAEL E. DOLECKI, SUPERINTENDENT;  
CHARLES E. HELLER, III, ASSISTANT  
SUPERINTENDENT,  
Defendants

and

THE CRAWFORD CENTRAL EDUCATION  
ASSOCIATION,  
Defendant

Deposition of BERNARD WAGNER, taken before  
and by Sondra A. Black, Notary Public in and for the  
Commonwealth of Pennsylvania, on Tuesday, August 30,  
2005, commencing at 10:22 a.m., at the offices of  
Knox McLaughlin Gornall & Sennett, PC, 120 West Tenth  
Street, Erie, Pennsylvania 16501.

Reported by Sondra A. Black  
Ferguson & Holdnack Reporting, Inc.

A P P E A R A N C E S

For the Plaintiff:

Caleb L. Nichols, Esquire  
P.O. Box 1585  
Erie, PA 16507

For Crawford Central School District; Crawford Central School  
Board; Michael E. Dolecki, Superintendent; Charles E. Heller,  
III, Assistant Superintendent:

Mark J. Kuhar, Esquire  
Knox McLaughlin Gornall & Sennett, PC  
120 West Tenth Street  
Erie, PA 16501

For The Crawford Central Education Association:

Richard S. McEwen, Esquire  
4250 Route 6N  
Edinboro, PA 16412

I N D E X

BERNARD WAGNER

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1           B E R N A R D   W A G N E R, first having  
2           been duly sworn, testified as follows:

3

4

DIRECT EXAMINATION

5

BY MR. KUHAR:

6

7

Q.    Good morning, Mr. Wagner.

8

A.    Good morning.

9

10       Q.    I represent the Crawford Central Education -- I'm  
11       sorry, I represent the Crawford Central School District, the  
12       School Board, and the other Defendants in this matter, other  
13       than the Crawford Central Education Association. We're here  
14       for your deposition. Have you been deposed before?

14

A.    I think so.

15

16       Q.    Well, the basic rules for the deposition are pretty  
17       simple. You'll be asked questions by me, and perhaps by the  
18       other attorneys. I don't know, it's up to them. You will be  
19       obligated to answer the questions truthfully, as you've just  
20       sworn that you would. If you are asked questions that you  
21       don't understand because they're grammatically improper or  
22       confusing, you should tell the attorney who's asking the  
23       question that you can't answer it and why, and that attorney  
24       should rephrase it. I certainly will try to do so.

24

25

Also, because of the way this is recorded, you have  
to give responses which are verbal. So as we all tend to

1 shrug our shoulders and nod our heads in everyday life, it's  
2 not appropriate to do that here. If you mean yes, you have  
3 to say yes; if you mean no, you have to say no verbally so  
4 the court reporter can hear us. Do you understand those  
5 rules?

6 A. Yes, sir.

7 Q. Are you employed?

8 A. Yes, sir.

9 Q. What's your full name?

10 A. Bernard Ralph Wagner.

11 Q. Where are you employed?

12 A. Patterson UTI out of Texas.

13 Q. I'm sorry, what kind of business is that?

14 A. Oil well and gas well business.

15 Q. Is that full-time?

16 A. Yes, sir.

17 Q. How long have you held that --

18 A. 10 years.

19 Q. What are your duties you actually perform? I think  
20 you said the company was in Texas.

21 A. Yeah, but they're located -- they have branches all  
22 over the United States.

23 Q. So they have a branch in Crawford County?

24 A. Yes, sir.

25 Q. Where in Crawford County?

1           A.    In Meadville, Pennsylvania.  It's under Universal --  
2           we run under Universal in Meadville.  That's a -- that's like  
3           a subsidiary of Patterson UTI.

4           Q.    What position do you hold there?

5           A.    I'm a dispatcher supervisor right now.  That's what  
6           I do now.

7           Q.    So you supervise workmen?

8           A.    Yes.  I call them in, assign jobs to them, stuff  
9           like that.  Paperwork.

10          Q.    So you've briefly described your position for us.  
11          What's your formal educational background?

12          A.    Just high school.

13          Q.    What high school did you graduate from?

14          A.    Cocurrent High School.

15          Q.    When?

16          A.    '61.

17          Q.    Now, you're married?

18          A.    Yes.

19          Q.    To the Plaintiff in this case?

20          A.    Right.  Rowena Wagner.

21          Q.    How long have you been married?

22          A.    11, going on 12 years.

23          Q.    I heard you recently had a child.

24          A.    Yes, sir.

25          Q.    Congratulations.  How many children do you have?

1 A. Seven.

2 Q. Seven?

3 A. But four to -- four to Rowena and three to my  
4 previous marriage.

5 Q. Do you recall being at a meeting with your brother,  
6 Fred -- you have a brother, Fred, right?

7 A. Yes, sir.

8 Q. Do you recall being at a meeting with your brother  
9 at which there were also Crawford Central School District  
10 administrators?

11 A. Yes, sir.

12 Q. How many of those meetings do you recall?

13 A. One -- oh, I been -- I been -- I been a -- I take  
14 that back. I've been to several meetings -- several school  
15 board meetings and that. I don't know what meeting you're  
16 referring to anymore.

17 Q. I was trying to figure out how many there were  
18 total. I do have one that I think occurred that I wanted to  
19 ask you about in particular. But as distinguished from a  
20 school board meeting, a sit-down meeting. How many sit-down  
21 meetings do you recall that you've had with Crawford Central  
22 administrators at which your brother was also present?

23 MR. NICHOLS: Objection. Counsel, clarify or  
24 specify what you mean. It's ambiguous. I mean, if  
25 you have a specific meeting you want to refer to,

1 specify. Don't wander.

2 MR. KUHAR: The nature of this proceeding is that  
3 you can note objections, like I think you are to  
4 this. I think my question was clear enough that I  
5 want the deponent to answer it.

6 MR. NICHOLS: Well, your question is ambiguous, at  
7 least.

8 MR. KUHAR: I'm running on the assumption that  
9 we're deferring objections such as that one, to the  
10 form of the question -- that you're preserving them  
11 to raise later.

12 Is that your assumption, Mr. McEwen?

13 MR. MCEWEN: That's normally how it happens in  
14 depositions that I've been involved in previously.

15 Q. Do you understand the question, Mr. Wagner?

16 A. Yes and no.

17 MR. NICHOLS: Don't speculate. Don't speculate.

18 A. Could I talk to him?

19 Q. Is he your attorney?

20 MR. NICHOLS: Yes, I'm his counsel.

21 MR. KUHAR: Okay.

22 (Discussion held off the record.)

23 Q. Let me try to rephrase the question. The only  
24 reason I said sit-down meeting, which seemed to be the  
25 trigger for this objection -- the only reason I said that was



1 to distinguish it from the school board meetings that you  
2 referenced. And I haven't worked up my question yet, which  
3 is, I just want to know how many times did you have meetings,  
4 whether you want to call them sit-down meetings or  
5 face-to-face meetings, where you met with administrators of  
6 the Crawford Central School District? Just you and  
7 administrators, or you and your brother and administrators.  
8 I just want to know, first of all, how many times do you  
9 recall that that happened?

10 A. Probably three or four.

11 Q. Now I want you to tell me what you recall of those  
12 meetings. Namely, when were they, who was there, and then  
13 I'm going to ask you what was said. If you can remember them  
14 in order, that's fine, but if you can't, that's fine, too.

15 A. Donald Wigden.

16 Q. Who's Donald Wigden?

17 A. He's the principal.

18 Q. Of which school?

19 A. Cochranon.

20 Q. Cochranon Elementary?

21 A. Senior high.

22 Q. You had a conversation with him? Not a board  
23 meeting, you had a regular conversation?

24 A. Yeah, regular, right.

25 Q. You understand what I mean by the question?

1           A.    Yeah.  I understand.  I understand.  And it was just  
2   recently.

3           Q.    You mean in '05?

4           A.    Yes.  Probably two weeks ago, maybe.

5           Q.    What was the subject of that?

6           A.    Steroids.

7           Q.    Did that conversation in any way relate to your  
8   wife's employment or efforts to become employed by the  
9   District?

10          A.    No.

11          Q.    So then I'm not going to ask you any more questions  
12   about that one.

13          A.    Okay.

14          Q.    Give me the next one you can recall.  Whatever order  
15   you want.

16          A.    I had about -- probably two weeks ago or so I talked  
17   to Mr. Dolecki one day about steroids.  I asked to have a --  
18   if I could talk to him face-to-face about the steroid  
19   problem, what they was doing about it, if they had a program  
20   infulated (sic) about it because it's -- you know, it's one  
21   of the top priorities in our school system today all over --  
22   with our young people all over America.

23          Q.    So you asked Mr. Dolecki about that?

24          A.    Yes, sir.

25          Q.    When was that?

1 A. Probably within the last couple weeks.

2 Q. Where did that conversation take place?

3 A. At Crawford Central Administration Building.

4 Q. Was that a scheduled meeting?

5 A. No.

6 Q. You just arrived --

7 A. Well, I -- I took some -- a letter in for my wife,  
8 and then I -- then I asked the secretary if I could talk to  
9 him.

10 Q. Then he did agree to talk to you?

11 A. Yes.

12 Q. How long did that meeting last?

13 A. Maybe five minutes.

14 Q. What was the letter that you were taking in  
15 regarding your wife?

16 A. An application for a job.

17 Q. With the Crawford Central School District?

18 A. Yes, sir.

19 Q. Was there any conversation about that application?

20 A. No. Not to my knowledge, no.

21 Q. Did that meeting that you just talked to me -- that  
22 you just discussed a little bit, did that have anything to do  
23 with your wife's employment or efforts to gain employment  
24 with the District?

25 A. No. Just the safety of our students in Crawford

1 Central School District.

2 Q. What about the third one? I think you said three or  
3 four.

4 A. I -- I think I may have met one time privately with  
5 Mr. Heller about my wife's employment. Probably -- 2003  
6 maybe. I don't know. Discussed it -- I don't know. I can't  
7 put a date on it. But there was another one where my brother  
8 and myself met with Mr. Dolecki and Mr. Haller.

9 Q. So just to be clear on the record, and for everybody  
10 here, you just referenced two different conversations, one  
11 where Mr. Dolecki was present and one where he was not, and  
12 as well where your brother was present and not?

13 A. Right.

14 Q. What do you remember, if anything, about the one  
15 where neither Mr. Dolecki nor your brother were present?

16 A. I -- I really can't recall too much about that  
17 meeting.

18 Q. Is it fair to say, sitting here today, you can't  
19 recall anything about what was said during that meeting?

20 A. No.

21 Q. What can you recall?

22 MR. NICHOLS: Counsel, he said he didn't recall.

23 MR. KUJAR: Then I asked whether he could recall  
24 nothing, and he said, no.

25 MR. NICHOLS: Well, he said he couldn't recall.

1           You have your right to -- don't badger him. That's  
2           all I'm asking, but please don't badger him. And  
3           I'll extend the same courtesy to you when I depose  
4           your clients.

5           Q.   Can you answer the question?

6           A.   I really can't answer that truthfully because I --  
7           it was -- it was back, I think, in 2002. But I can't -- I  
8           can't actually -- you know, it was about her employment, I'm  
9           sure, but I can't -- the details of it I can't recall.

10          Q.   So you recall that the subject was, your wife's  
11          employment with the District?

12          A.   Right.

13          Q.   But regarding what actual words were used by you or  
14          Mr. Dolecki, you don't recall those?

15          A.   No, it wasn't Mr. Dolecki.

16          Q.   I'm sorry, I misspoke. Mr. Heller. Thank you.

17          A.   Right.

18          Q.   You don't recall the words that were used?

19          A.   No. Not really. Not really.

20          Q.   What about any points that were made? Do you recall  
21          making any points or that Mr. --

22          A.   At that meeting with Mr. --

23          Q.   Or that Mr. Heller made any points?

24               MR. NICHOLS: What are you referring to "points"?

25               MR. KUCHAR: I'm doing my best to conduct a test of

1 his memory, and he's answering the questions. Let  
2 him.

3 MR. NICHOLS: Do you know what points mean? What  
4 are you talking about?

5 A. I can't remember --

6 MR. NICHOLS: Wait a minute.

7 (Discussion held off the record.)

8 MR. NICHOLS: He said he can't remember. Do you --  
9 don't badger him. And I'm instructing him not to  
10 speculate. He testified what facts -- but you have  
11 no right to insist upon speculation from him. All  
12 right.

13 MR. MCEWEN: I would like to object for the record  
14 on counsel's interruptions here. I think it's very  
15 disruptive to the process. This is not a hearing.  
16 It's a deposition where the purpose is for the  
17 Defendants, including the District and the  
18 Association, to gain information. We have to ask  
19 questions in order to get information. And these  
20 objections perhaps would be relevant at a hearing,  
21 but they're not relevant in a deposition.

22 MR. NICHOLS: Mr. McEwen, please. I'm his counsel.  
23 I'm not a potted plant here. I know the ground  
24 rules. Please don't lecture me.

25 MR. MCEWEN: Well, it doesn't appear that way.

1 MR. NICHOLS: Don't lecture me, please.

2 MR. MCEWEN: I'm not lecturing you. I'm stating an  
3 objection for the record.

4 MR. NICHOLS: You'll have your right, your time,  
5 counsel.

6 MR. MCEWEN: Well, you're interfering with our  
7 rights as I see it right now.

8 MR. NICHOLS: Well, then you state your objection  
9 for the record, all right, whatever they are.

10 MR. KUCHAR: I want the record to reflect that I  
11 have not raised my voice whatsoever when speaking  
12 with this deponent, and that I have no idea what  
13 Mr. Nichols means when he refers to badgering the  
14 witness. I'm trying to, as courteously as  
15 possible, test the memory of the deponent regarding  
16 these meetings that he referenced with  
17 administrators, which I'm entitled to do.

18 Q. And I ask you again, as civilly as possible, and in  
19 as calm a voice as possible, do you remember anything else  
20 about the meeting that you had with Mr. Heller that you  
21 referenced a minute ago?

22 A. No. I can't really.

23 Q. Fine. Thanks. Now, the other meeting that you  
24 referenced where your brother was present and Mr. Dolecki was  
25 present, do you recall telling me a few minutes ago that you

1 had such a meeting?

2 A. Yes, sir.

3 Q. Now, I want to know all you can remember about that  
4 meeting, where it was, how long it lasted. As best you can  
5 recall. If you can't recall, it's fine to tell me that you  
6 can't recall. But I do want to test your memory about that  
7 meeting and find out what happened there.

8 A. It took place at Crawford Central Administration  
9 Building.

10 Q. Okay.

11 A. And it was -- the reason -- we went there to discuss  
12 a statement made by School Director George Wright.

13 Q. You and your wife went there?

14 A. No. My brother, Fred, and I went there.

15 Q. I'm sorry. Okay. You and your brother, Fred.

16 A. And, also, to discuss minority hiring.

17 Q. Generally?

18 A. Right.

19 Q. Okay.

20 A. And, also, we discussed that -- at that meeting  
21 Brown versus Brown case from 1954 of -- what's on the books.  
22 And, also, funding -- Federal funding and State funding  
23 regulations.

24 Q. Now, is that one -- did you say "funding  
25 regulations"?



1 A. Yes.

2 Q. Go ahead.

3 A. That they're supposed to follow.

4 Q. Go ahead if there's more.

5 A. And that's what -- that's actually what the agenda  
6 was.

7 Q. So that's what the agenda was in advance, in your  
8 mind -- I mean, that's why you went there, and, in fact,  
9 that's what you talked about when you went there?

10 A. Yes, sir.

11 Q. Were there any subjects that the administrators  
12 refused to talk to you about?

13 A. No, sir.

14 Q. What do you recall being said by any of those four  
15 participants on these subjects? Do you recall any of what  
16 was actually said?

17 A. Yes, sir.

18 Q. Please tell us about that.

19 A. My conversation mostly was with Mr. Heller. And --  
20 and our first thing was, I was very upset, the reason I took  
21 my brother along is that -- to make sure everything was  
22 civilized, and there was nothing -- if something happened  
23 later on, nothing could be denied by one another because it  
24 was -- he was there with me.

25 Q. Nothing could be, did you say, denied?

1           A.    You know what -- what -- yes.

2           Q.    I just wanted to hear your word clearly.

3           A.    And at that time my wife was trying to get a job --  
4           full-time job as a teacher through Crawford Central. And  
5           there was a --

6           Q.    I had asked you what you recall of that. I don't  
7           know if that helps.

8           A.    I'm trying to put it in --

9           Q.    Sure. Just trying to jog your memory.

10          A.    The first thing that come up was that my wife and I  
11          had met several times with one of the school directors,  
12          George Wright, on his statement. That, he was on the radio,  
13          he had made a couple months earlier about minority hiring in  
14          Crawford Central District. And my wife and I had probably --  
15          I'd say several meetings with Mr. Wright on that issue of  
16          minority hiring, and the last -- and the reason I wanted to  
17          have a meeting with them guys, the administration, was to  
18          discuss the statement that he made on our final discussion as  
19          between Mr. Wright and myself.

20          Q.    What was that?

21          A.    That statement was, Bernie, you have to understand  
22          that it's a proven fact that brown people and black people  
23          are not as smart as white people. And the second statement  
24          he said, also, was -- these are the last two, actually,  
25          statements I ever -- discussion I ever had with the man. He

1 said, you know, your wife's never going to get a job with  
2 Crawford Central because you're a troublemaker, really.

3 Q. Did you say "really" at the end there? You're a  
4 troublemaker, really?

5 A. Yeah.

6 Q. Okay. Go ahead.

7 A. He said I was a troublemaker, really. That was his  
8 statement. And so that's what triggered the meeting between  
9 Mr. Dolecki and Mr. Haller. That if a board member had that  
10 belief that brown people and black people are not as smart as  
11 white people, and it's a proven fact he said, that I needed  
12 to talk to the administration and see their feeling about  
13 that.

14 Q. That's what you felt? If Mr. Wright felt that, you  
15 needed to talk to the administration?

16 A. Right.

17 Q. Do I have it right?

18 A. Yes, sir. And that's what, really, the meeting  
19 about -- that was the start of the meeting.

20 Q. What else do you recall of that meeting?

21 A. What else was that -- that I checked their hiring of  
22 minorities --

23 Q. You checked their hiring?

24 A. Yes. I talked to a lady and -- several people about  
25 minority hiring before I went -- before that evening.

1 Q. Who was the lady, and who were the other people?

2 A. Mrs. Dickson.

3 Q. Armidia (phonetic)?

4 A. You got it. Armidia Dickson. Former president of  
5 the school board, Jerry Dunn -- Jerry George Dunn. Sam Byrd,  
6 former school director. Lee McFearon, who was -- he worked  
7 with Mr. Heller and the minority -- I think minority --  
8 trying to recoup minority hiring. Dr. Elton Scales from  
9 Edinboro University. Reverend Stanley Smith.

10 Q. Reverend Stanley Smith?

11 A. Of the John Baptist Church in Meadville,  
12 Pennsylvania. Reverend Bernadette Newsome.

13 Q. Bernadette Newsome?

14 A. Newsome.

15 Q. What church?

16 A. I can't tell you.

17 Q. In Meadville?

18 A. Meadville. Reverend Burnett -- Marvin Burnett. I  
19 also talked to the secretary of education and -- at  
20 Harrisburg, and she asked me to send a letter to the governor  
21 on this matter.

22 Q. You spoke directly with the secretary of education?

23 A. I -- I can't -- yes. But I can't recall her name,  
24 and -- she said to send a letter to the governor -- addressed  
25 to the governor. Mr. Moody --

1 Q. What was the governor at that time?

2 A. Rendell.

3 Q. Walter Moody?

4 A. Yes, sir.

5 Q. What do you recall of your conversation with him?

6 A. About his relatives trying to get a job with  
7 Crawford Central. He's an African American. An attorney in  
8 Topeka, Kansas named Attorney Stallard.

9 Q. Were you talking to Attorney Stallard as a  
10 attorney/client?

11 A. No. He worked on -- he was -- he worked on the  
12 Brown case.

13 Q. And you're giving me this list of people because  
14 these are people you talked to before --

15 A. Before --

16 Q. -- talking to the administrators?

17 A. Right.

18 Q. Continue with the list, please.

19 A. And I think that's -- and my brother, Fred Wagner.

20 Q. I'm going to ask you about those conversations that  
21 you had with those people later, but you're giving me this as  
22 background now?

23 A. Right.

24 Q. And that's fine. When I say things like that, I'm  
25 just trying to check my understanding to see if I got it

1 right. So you told us about those people that you talked to  
2 sort of to set the stage as to why you went to talk to the  
3 administration?

4 A. Yes, sir.

5 Q. How long did your conversation with the  
6 administration last?

7 A. Probably 15 minutes to half an hour.

8 Q. Where was it?

9 A. At the Crawford --

10 Q. I mean, do you recall who's -- was it Mr. Dolecki's  
11 office?

12 A. I think it was in his office, yes. I think it was  
13 in his office. I -- I didn't look at the door.

14 Q. I understand. I'm entitled to ask, and if you don't  
15 know, you don't know.

16 A. Yeah. Yeah.

17 Q. What do you recall of that actual conversation? You  
18 already told me why you wanted to have it, and you told me  
19 that that was what was discussed during that meeting, but now  
20 I'm just asking you if you have any more detail regarding  
21 what was said?

22 A. Yes. The Wright situation I addressed -- that was  
23 the first thing I addressed to Mr. Heller and Mr. Dolecki.

24 Q. Let me ask you a question, I don't mean to disrupt  
25 you, but did your brother, Fred, say anything during the

1 meeting?

2 A. Yes.

3 Q. We'll get to that. So you told Mr. Heller about  
4 Mr. Wright's comment?

5 A. Yes, sir.

6 Q. What else do you recall?

7 A. And Mr. Heller agreed that that is -- that's a  
8 proven fact.

9 Q. He said so?

10 A. Yes. He agreed. He said some university -- I can't  
11 tell you -- it was -- a university did a study, or a  
12 professor -- I don't know. I can't actually --

13 Q. But he cited some source --

14 A. Right.

15 Q. -- of a study?

16 A. Yeah. I don't -- can't remember -- couldn't recall  
17 what it was.

18 Q. What else do you recall?

19 A. I said, you know, this meeting is not just because  
20 of my wife. It's to hire all -- to give all minorities a  
21 chance because the percentage that we have in the Crawford  
22 School District is less than 1 percent of the  
23 administration -- teachers that's -- that is employed as  
24 teachers.

25 Q. Who are minorities?

1 A. Right.

2 Q. Okay.

3 A. And we also got into the Brown -- I got into the  
4 Brown situation where there's supposed to be a 7 percent  
5 minority.

6 Q. I'm sorry, there is supposed to be a 7 percent  
7 minority?

8 A. If you read the Brown through. And that -- and,  
9 also, that --

10 Q. I'm sorry, I don't mean to disrupt you, but you seem  
11 like you're about to move on to another subject. So I want  
12 to clarify. You advised them that the Brown decision  
13 requires 7 percent what? 7 percent minority teachers?

14 A. Yes.

15 Q. Go ahead.

16 A. And they said, oh, them's just guidelines. Them's  
17 guidelines. And I also said, the State and Federal finances  
18 subsidizes the school district, you know, and they require --  
19 you know, it's the law to do that. It's not guidelines, it's  
20 a law. And Mr. Heller said, no. That's more just  
21 guidelines.

22 And I also, at that meeting, informed them about the  
23 nepotism program that they had. You know, that so many  
24 teachers that they hire is through relatives get hired and --  
25 you know, it's not how good you are, it's who you know.



1           Q.    You told the administrators that that was your  
2           perception of the situation?

3           A.    Yeah.  It is.  It's very true.  I mean, Mr. --

4           Q.    Okay.  But, I mean, did you ask them about that or  
5           did you sort of challenge them about that, or how would you  
6           describe it?

7           A.    They kind of brushed that aside.  They brushed that  
8           aside.  Because Mr. Dunn, the former president, said, that's  
9           how my sister-in-law got hired.  It's not -- you know, if it  
10          wouldn't have been for him and her brother-in-law being the  
11          president of the board, she wouldn't have gotten back into  
12          the School District as soon as she did.

13          Q.    Jerry George Dunn told you that?

14          A.    Right.

15          Q.    Go ahead.  What else do you recall of that meeting  
16          that you had?

17          A.    The other part was, you know, that I informed them  
18          that it wasn't just about my wife's hiring that I was there.  
19          I wanted to see changes made, and if changes wasn't made,  
20          then we would have to go to another step in the Federal  
21          Court.

22          Q.    Do you recall anything else of that conversation?

23          A.    No.  Not really.  Not right now.

24          Q.    You did reference that your brother, Fred, said  
25          something.  What did he say?

1 A. I really --

2 Q. If you can remember.

3 A. I can't remember.

4 MR. NICHOLS: You're going to examine him,  
5 counsel --

6 A. I can't --

7 MR. NICHOLS: -- why don't you let Fred Wagner  
8 speak for himself.

9 MR. KUCHAR: I will let him speak for himself.

10 A. I know he was concerned about my wife's hiring or he  
11 wouldn't have been there.

12 Q. Support?

13 A. Right. And the comment that a school director would  
14 make in the 20th century -- in the 21st century.

15 Q. Right. Well, you've told us what you recall of that  
16 meeting, anyway -- what you can recall sitting here right  
17 now, right?

18 A. Yes, sir.

19 Q. Do you recall either of the administrators saying  
20 anything else that you thought was inappropriate for the 21st  
21 century? You know, the way you described Mr. Heller's  
22 alleged affirmation --

23 A. Conduct or whatever, yeah. You know, there's very  
24 nice -- they just -- that regulations are just guidelines.  
25 They're not to be -- they're not to be, you know, whatever --

1     like fundings or just guidelines. It's not regulations --  
2     it's not law or anything. It's just guidelines.

3           Q.    To be clear, I did hear you tell us about that  
4     earlier. This is my way of basically saying, do you recall  
5     anything else that was said, and you've already told me that  
6     you don't recall anything else that was said. But I'm asking  
7     it this way: Do you recall anything else that was said that  
8     you consider to be discriminatory or backwards or not part of  
9     the 21st century?

10          A.    I would say, I can't remember at this time.

11          Q.    Now, is that the whole list of conversations that  
12     you had with administrators that you can remember?

13          A.    About this case or other --

14          Q.    Well, you told me about steroids --

15          A.    Yes.

16          Q.    -- and that didn't have anything to do with this  
17     case.

18          A.    Yeah.

19          Q.    So is that the whole list total?

20          A.    I would say -- I would say, yes, sir.

21          Q.    You may have bumped into one at a basketball game or  
22     something, but one's of consequence; is that fair?

23          A.    Yes.

24          Q.    Now, you did set the stage for us regarding why you  
25     went to the administration by referring to about eight or 10

1 people whom you had talked to previously.

2 A. Yes.

3 Q. So now I want to go through those. And let's start  
4 with Mr. Jerry George Dunn, who was a former school board  
5 member at the time you talked to him?

6 A. No. No. He was a former board member and president  
7 of the board.

8 Q. So he was a board member at the time you talked to  
9 him?

10 A. No.

11 Q. Because I had said --

12 A. He was former. He was a former member and president  
13 of Crawford Central School District.

14 Q. At the time you talked to him was he -- in other  
15 words, is he former now --

16 A. No.

17 Q. -- and he was current then?

18 A. No. He's my next-door neighbor.

19 Q. When you were talking to him, was he a board member  
20 or not at that time?

21 A. No.

22 Q. He was a former at that time?

23 A. Right.

24 Q. And he's a former right now?

25 A. Right.

1 Q. He's your next-door neighbor you said. So is it  
2 fair to say you had numerous conversations with him?

3 A. Yes.

4 Q. Can you approximate the number? When I say  
5 "conversations," at this point I mean conversations about  
6 minority hiring or the treatment of minorities by the  
7 Crawford Central School District.

8 A. Several. I'd say several.

9 Q. More than 10? If you can. If you can't, you can't.

10 A. I would say more than 10.

11 Q. Do you recall him ever saying anything that you  
12 considered to show a discriminatory view of minority  
13 employment on his part?

14 A. We -- we -- we discussed the Dickson case several  
15 times because he was a -- he was on the board at that time.

16 Q. And you said that when I had asked the question did  
17 he ever say anything that showed discriminatory intent on his  
18 part. So is that your way of telling me that when he was  
19 talking about the Dickson case he said things that made you  
20 think he was discriminatory or --

21 A. I couldn't -- I can't answer that.

22 Q. Well, you knew that when Mr. Wright allegedly said  
23 what he said -- you knew that that was discriminatory and not  
24 part of the 21st century, right?

25 A. Yes, sir.

1 Q. So when I use those terms, you know what I'm talking  
2 about?

3 A. Yes, sir, I do.

4 Q. I mean, if somebody were to refer to an African  
5 American with the N word, for example, or otherwise show  
6 bias --

7 A. Yes, sir.

8 Q. Do you recall any specific comments that showed that  
9 kind of bias made by Jerry George Dunn in your conversations  
10 with him?

11 A. I can't recall.

12 Q. What about these other folks, and I'll just sort of  
13 run through the list quickly, and if you want, I'll rename  
14 them, but it's your list. Sam Byrd, Lee McFearon, Elton  
15 Scales, Reverend Stanley Smith, Reverend Bernadette Newsome,  
16 Marvin --

17 A. Burnett. Reverend Marvin Burnett.

18 Q. Reverend Marvin Burnett?

19 A. Yes.

20 Q. The secretary of education, Walter Moody, Attorney  
21 Stallard, and your brother. Did any of these folks ever say  
22 anything in your conversation with them that you considered  
23 to be showing their bias against racial minorities or the  
24 employment of them?

25 A. Yes.

1 Q. Who?

2 A. Mr. McFearon.

3 Q. And what race is he?

4 A. African American.

5 Q. What did he say that showed the bias?

6 A. Well, I only talked to Mr. McFearon one time. It  
7 was at a -- I took him out to dinner at Perkins in Meadville,  
8 and Sam Byrd was with us at that time. At that time that --  
9 he was working for Crawford Central School District. He's no  
10 longer employed there.

11 Q. Okay.

12 A. And he said that Mr. Heller and him went to school  
13 fairs at universities, I guess like at Edinboro and around --  
14 I don't know, to recruit minority hiring, and it was just a  
15 joke of, you know, they -- they'd go, but they wasn't gonna  
16 really hire them. You know, they just did that to -- for a  
17 front.

18 Q. Lee told you it was a front?

19 A. Yeah. He said, they wasn't gonna hire them. The  
20 record shows that they don't hire.

21 Q. Did that strike you as odd that since he was an  
22 African American that he would advise against hiring them?

23 A. No. He wasn't biased against hiring them.

24 Q. Okay.

25 A. The School District was.

1 MR. NICHOLS: Did you understand his question?

2 I think he misunderstood your question.

3 MR. KUHAR: I think so, too. That's why I'm trying  
4 to clarify that.

5 Q. So a long way back I had asked whether any of these  
6 people had said things that showed a bias.

7 A. Oh, no.

8 Q. It's okay, because I was going to ask this question  
9 next anyway. But first I wanted you to tell me whether any  
10 of those people had made statements that made you think they  
11 were biased themselves.

12 A. No. No. The only person that's ever made that  
13 statement was Mr. Wright.

14 Q. The one you already told us about.

15 A. And I was very upset that Mr. Heller agreed.

16 Q. I understand. Okay. That's it, though --

17 A. Mr. Dolecki never did, but Mr. Heller did.

18 Q. As far as people who said things that made it appear  
19 to you that they themselves were biased, that's it in terms  
20 of the people you've mentioned so far?

21 A. Yes.

22 Q. So then, when Mr. McFearon was talking about going  
23 to job fairs and the like, with Sam Byrd present at Perkins,  
24 he was suggesting that the District wouldn't hire them?

25 A. Right.



1 Q. Not that he personally didn't want to hire them?

2 A. No. No.

3 Q. I think we understand each other.

4 A. That it was just a show.

5 Q. Now, I do want to ask you whether there were any  
6 others. Did any of these other people say things that  
7 suggested that the District was biased?

8 A. Yes. Mrs. Dickson.

9 Q. What did she say?

10 A. I met with her at Edinboro University, and she said  
11 that -- Bernie, you just got to understand, new people but  
12 the same old ideas. You know, they're -- you know, about  
13 minority hiring. And some other things -- we talked for  
14 probably a half an hour or so, and I can't actually recall  
15 everything she -- comments that she made about because she --  
16 her case and that there in Federal Court.

17 Q. So you can't recall any other comments?

18 A. Well, basically the School District had the same --  
19 same feelings about hiring minorities or promoting minorities  
20 as they did back in her Federal case in '83 or '85. I think  
21 it ran from 1983 to 1985.

22 Q. That's what she was telling you?

23 A. Yes.

24 Q. Others on the list who --

25 A. Who --

1 Q. Again, I have to finish the question so this all  
2 makes sense, even though you probably can guess what I'm  
3 going to ask. Other people on this list that who've  
4 attributed to the District a discriminatory mind-set?

5 A. Yes. All of them.

6 Q. Tell me what they said.

7 A. Start at the top.

8 Q. You talked to me about Mr. Jerry George Dunn;  
9 although, not really. Answer the question with respect to  
10 Jerry George Dunn.

11 A. Jerry was more or less the nepotism program that  
12 they have. It's not how qualified you are, it's who you know  
13 and who you don't know.

14 Q. Doesn't that adversely impact both Caucasian and  
15 non-Caucasian people?

16 A. I would say that's right.

17 Q. But Jerry talked about their nepotism?

18 A. Yes.

19 Q. Did he say, and they don't like racial minorities or  
20 anything that specific?

21 A. No.

22 MR. NICHOLS: Wait just a minute. Did you  
23 understand his question prior to that as to the  
24 nepotism policy? Did you say, did they have --  
25 nepotism existed here, that it adversely affects

1 both Caucasian and minority alike? Did you  
2 understand his question? You said, yes. Did you  
3 understand the -- that was the question; wasn't it,  
4 Mr. Kuhar?

5 MR. KUHAR: The question, I don't remember it  
6 exactly -- whether you got it exactly right. At  
7 the beginning, though, I did ask him -- I  
8 instructed him, if he doesn't understand the  
9 question, he should tell me that.

10 MR. NICHOLS: That's what I was try to get -- I  
11 want him to be responsible -- to be as accurate as  
12 possible. I don't think he understood your  
13 question.

14 MR. KUHAR: I think he did.

15 MR. NICHOLS: Bernie, do you understand his  
16 question?

17 MR. KUHAR: If you want to recant any prior --

18 MR. NICHOLS: Do you want to rephrase the question.

19 A. Could you rephrase that nepotism -- the nepotism  
20 question.

21 Q. I was asking whether you thought that nepotism in  
22 favor of relatives would adversely affect both Caucasians who  
23 had no relatives in the District as well as racial minorities  
24 who had no relatives in the District. Wouldn't they both be  
25 affected?

1 MR. NICHOLS: Well, wait, just before you answer  
2 that --

3 MR. KUCHAR: Wait a minute. You're not allowed to  
4 do that.

5 MR. NICHOLS: You mean --

6 MR. KUCHAR: You can't give him the answer.

7 MR. NICHOLS: I'm his counsel. I'm his counsel.

8 MR. KUCHAR: After I finish the question --

9 MR. NICHOLS: All right. Well, finish your  
10 question, and then, before he answers --

11 MR. KUCHAR: No.

12 MR. NICHOLS: Well, he wants to consult with me.

13 MR. KUCHAR: He's not allowed.

14 MR. NICHOLS: What do you mean he's not allowed?

15 MR. KUCHAR: You can't confer with him after a  
16 question but before he gives an answer.

17 MR. NICHOLS: I can confer with him, Mr. Kuchar.

18 MR. KUCHAR: I object.

19 MR. NICHOLS: This is attorney/client -- you can  
20 note that, but this is attorney/client privilege  
21 here -- you're dealing with.

22 MR. KUCHAR: Is the record going to reflect that the  
23 witness was not allowed to answer after my question  
24 until he talked to his lawyer? I can't physically  
25 stop you from doing it.

1 MR. NICHOLS: Let the record reflect that Mr. Kuhar  
2 posed the question to my client, my client did not  
3 understand, and Mr. Kuhar was requested to rephrase  
4 the question, and to assure that my client  
5 understood, I wanted to consult with him -- consult  
6 with him prior to answering. That's what the  
7 record should reflect.

8 MR. MCEWEN: I would just like the record to  
9 reflect that, from my perspective, perhaps counsel  
10 believed that his client did not understand the  
11 question, but his client appeared to me to  
12 perfectly understand the question and honestly  
13 answered the question and did not request any  
14 assistance from his counsel.

15 MR. NICHOLS: Well, first of all, you let the  
16 record reflect that this is attorney/client  
17 privilege, and I -- one, I don't think that  
18 Mr. McEwen has any standing to speak on this issue.

19 MR. KUHAR: He clearly does.

20 MR. NICHOLS: I don't think he has any standing to  
21 speak.

22 MR. MCEWEN: I'm a representative of a Defendant in  
23 this lawsuit, we're here at a deposition --

24 MR. NICHOLS: But you are dealing with  
25 attorney/client privilege here.

1 MR. MCEWEN: This is not attorney/client privilege.

2 If you want --

3 (Proceedings interrupted by reporter.)

4 MR. NICHOLS: Are you saying I'm not his counsel?

5 MR. MCEWEN: No. I'm saying that the issue of an  
6 answer to a question at a deposition is not a  
7 matter of attorney/client privilege. If you feel  
8 that your client is not sufficiently prepared for  
9 the deposition, then you can ask for a recess and  
10 go speak with him, but it is completely improper,  
11 in my opinion, for you to continually interrupt the  
12 questioning to essentially coach your witness.

13 MR. NICHOLS: The term you use, "coach," is  
14 unfortunately one that's not accurate by any  
15 measure.

16 MR. MCEWEN: That's how it appears to me.

17 MR. NICHOLS: I feel as if you are inappropriately  
18 interfering with attorney/client privilege here,  
19 first of all, and I don't know why you insist on  
20 that.

21 Second of all, Mr. Kuhar, I would like to note,  
22 this is -- I am his counsel here. The question  
23 that you posed here, you asked him to offer an  
24 opinion on a very important question, and the  
25 question is, you are asking -- let's be clear about

1           what you're asking him. You're asking him on this  
2           issue which we have raised, will be raising, and  
3           it's coming to the fold, dealing with the  
4           application of the antinepotism policy. And you're  
5           asking him his opinion, does the nepotism, as has  
6           been applied or to the extent exists in the hiring  
7           of minorities at Crawford Central School District,  
8           impact adversely minorities and Caucasians the same  
9           likewise -- the same extent, or, by implication,  
10          does it adversely impact minorities more than it  
11          does Caucasians. That's the question. He -- and I  
12          think when he -- when he answered -- I want to make  
13          sure his answer, that he understands, one, what  
14          he's responding to --

15          MR. MCEWEN: I object. That's not your role here.

16          MR. NICHOLS: What he's responding to. What he's  
17          responding to.

18                 So, Bernie, before you answer, do you  
19          understand the question?

20          THE WITNESS: No.

21          MR. MCEWEN: I want to object.

22          THE WITNESS: No.

23          MR. MCEWEN: I object. I would like to raise my  
24          objection before we proceed.

25          MR. NICHOLS: Well, you noted it for the record.

1 We heard it several times. You just said it.

2 MR. MCEWEN: No. I have a new objection. Sir,  
3 this is improper. If you have an objection to the  
4 form of Mr. Kuhar's question, state objection to  
5 the form of the question, and we move on. We don't  
6 need to speechify --

7 MR. NICHOLS: No. No

8 MR. MCEWEN: -- and make your case in the record.

9 MR. NICHOLS: You are speechifying, sir, let's not  
10 get cute.

11 Now, do you understand the question?

12 THE WITNESS: I understand it better now.

13 MR. NICHOLS: Please don't interfere with  
14 attorney/client privilege.

15 THE WITNESS: I understand it now.

16 MR. MCEWEN: I'm not interfering with  
17 attorney/client privilege.

18 MR. NICHOLS: Please. I don't know what your  
19 problem is.

20 MR. KUHAR: Mr. Nichols, his problem is, your  
21 conduct is getting in the way of our deposition of  
22 this deponent.

23 MR. NICHOLS: No. I'm not going to allow you to  
24 mislead him and to bamboozle --

25 MR. MCEWEN: No one is misleading.



1 THE WITNESS: I was actually misleded (sic).

2 MR. NICHOLS: Yeah. Okay.

3 THE WITNESS: I was actually misleded (sic) on  
4 that question.

5 Q. That wasn't my -- you heard Mr. -- did you hear  
6 Mr. Nichols clarify what my question was?

7 A. He did clarify it.

8 MR. NICHOLS: Why do you try to --

9 A. He clarified --

10 MR. NICHOLS: -- shut me down when I clarify?

11 (Proceedings interrupted by reporter.)

12 A. He did clarify it.

13 Q. Let me clarify something. That wasn't my question.  
14 What Mr. Nichols told you was my question --

15 A. No. No.

16 Q. -- wasn't my question.

17 A. No. No.

18 Q. I get to decide what my questions are.

19 A. Okay. Okay.

20 Q. So I don't need you to answer Mr. Nichols' question.

21 A. No. No. But I -- what --

22 MR. NICHOLS: Don't insult his intelligence,  
23 please, counsel.

24 A. I can't -- your question -- could you restate your  
25 question to me on that so I can clarify my answer.

1 Q. My question was: If a school district has a policy  
2 of preferring relatives to nonrelatives, wouldn't that affect  
3 both minorities who have no relatives in a district and  
4 Caucasians who have no relatives in a district? I didn't ask  
5 you if it would have the same impact.

6 A. Only thing I can speak for is my wife.

7 Q. Fine.

8 A. Okay. Her situation. Because I have never, you  
9 know, talked to other people about the nepotism program. The  
10 nepotism program that they have in effect now. And, I  
11 believe, is, that since my wife has no relatives, you know,  
12 because she's a minority, that the nepotism program plays a  
13 big part in her not getting a full-time job.

14 Q. Which of the other people on the list have  
15 attributed to the Crawford Central School District a  
16 discriminatory mind-set?

17 A. I don't understand the question quite clearly.

18 Q. Thank you for telling us that. I will try to  
19 rephrase it. You had started going through this list of  
20 people and told us that, for example, Lee McFearon had  
21 attributed a mind-set on the part of the district not to hire  
22 minorities, okay, and then you had started talking about  
23 Jerry George Dunn and how the nepotism policy started to  
24 impact your wife, you believe --

25 A. No -- yeah. He had made that -- he made the comment

1 because my sister-in-law is employed by the School  
2 District --

3 Q. Your sister-in-law?

4 A. Yes.

5 Q. As opposed to his?

6 A. Yeah. And he had -- what?

7 Q. His or your sister-in-law?

8 A. My sister-in-law.

9 Q. Okay. Fine. And now, the question I asked a minute  
10 ago that you asked me to clarify was, which of these other  
11 people have attributed a discriminatory mind-set to the  
12 School District? And basically I'm just wanting to go  
13 through the list and have you tell me about each of them.

14 A. Mr. Byrd.

15 Q. Go ahead.

16 A. That minorities, you know, for under -- you know, he  
17 feels that minorities -- he has stated to me that he feels  
18 minorities, since they don't have relatives on the -- in the  
19 teaching or administration program, that they can't -- they  
20 don't have a foot up on getting hired.

21 Q. That's Byrd?

22 A. That's Mr. Byrd, right.

23 Q. Okay. Go ahead.

24 A. And McFearon, you know, his hiring -- he felt that  
25 the reason he was hired as a minority was because of his --

1 his relatives and relationship being teachers at the School  
2 District and being part of the administration program.

3 Q. So he felt -- I'm sorry.

4 A. That's how he got hired.

5 Q. He told you that he felt he was not hired based upon  
6 his merit, but rather, because of his relatives?

7 A. Yes, sir.

8 Q. Go ahead down the list.

9 A. Mrs. Dickson, you know, we talked, you know, and  
10 she -- just about minorities, you know, that you know how --

11 Q. You already told us about --

12 A. Yeah. Yeah.

13 Q. -- different times, different people, same mind-set.

14 A. But you're talking about the nepotism program now?

15 Q. No. Not directly. I had asked the question, which  
16 of these people had attributed to the District a  
17 discriminatory mind-set --

18 A. Well, the --

19 Q. Well, let me finish now because there's a lot of  
20 concern that you have the question clearly, and I'm  
21 concerned, too. And you had said, well, Jerry George Dunn  
22 didn't talk directly about discriminatory animus, but he  
23 talked about the nepotism policy, which hurts my wife because  
24 she doesn't know anybody, fair?

25 A. Right.

1 Q. And then you said what Ms. Dickson said, what Sam  
2 Byrd said. So now I'm having you go down the line --

3 A. Reverend Smith, he said he brought several  
4 applicants in from the -- Erie County into the School  
5 District that was never -- never even got an interview. Let  
6 alone be hired for a substitute or a full-time position.

7 Reverend Burnett, he stated the same situation. I  
8 knew Mr. Burnett for 50 years probably. And he said that --  
9 he used an -- a gentleman, Mr. Brown -- Eric Brown tried to  
10 get employment and he was denied. Whether it's -- and  
11 Reverend Newsome, same situation there. She said there's  
12 been applicants that -- with no success through Crawford  
13 Central School District.

14 And Mr. Moody, he's an African American in  
15 Meadville, which he said he had relatives that tried to get  
16 in and had no success. But one of them moved to Florida and  
17 become teacher of the year, but -- she wasn't qualified to  
18 teach in Crawford central, but yet, she become teacher of the  
19 year in Florida.

20 Q. Do you remember who that was?

21 A. I can't recall her name.

22 Q. Mr. Moody would know?

23 A. I'm sure he would know.

24 Q. Okay.

25 A. That's about all the people I talked to.

1 MR. KUHAR: I need one minute with my clients in  
2 the hall.

3 (Pause in the proceedings.)

4 Q. I had you go through that list of names that you had  
5 given us, and you attributed to those people what they had  
6 said, and, in some cases, the discriminatory view that they  
7 had attributed to the District, right? You recall doing  
8 that?

9 A. Right.

10 Q. Any others sitting here?

11 A. No. It was some afterwards, but not before -- not  
12 before the meeting and that there.

13 Q. What do you mean "some afterwards"?

14 A. Well, there was other people, you know, that's --  
15 that's -- that showed their -- you know, well --

16 Q. I'll withdraw that question. So you don't have to  
17 worry about finishing the answer. Let me ask it this way,  
18 and it's designed to possibly save time and possibly be easy  
19 to answer: Did any other people --

20 A. I'm hard of hearing.

21 Q. I apologize.

22 A. That's okay.

23 Q. I'll speak more loudly. Did any other people at any  
24 time tell you that the District, administration, or the  
25 school directors had actually said anything which showed a

1 discriminatory intent?

2 A. I don't think anybody else has ever -- not that I  
3 recall right now.

4 MR. KUJAR: Those are all the questions I have.

5 Dick McEwen may have questions for you.

6

7

CROSS-EXAMINATION

8 BY MR. MCEWEN:

9

10 Q. Really, my question is along the same lines. I  
11 represent the Crawford Central Education Association, the  
12 teacher's union. And, really, you've spoken about a number  
13 of individuals you spoke to. Did any of the individuals you  
14 talked to ever tell you that the teacher's union, or any of  
15 its officers, was biased or had expressed a discriminatory  
16 view against the hiring of minority applicants at Crawford  
17 Central School District?

18 A. Not to my knowledge, no.

19 Q. Did any other individual ever indicate that to you?

20 A. What do you mean by "individual"?

21 MR. MCEWEN: I'll withdraw that. That's all I  
22 have. Thanks.

23 MR. KUJAR: Mr. Nichols?

24 MR. NICHOLS: Just one moment.

25 (Discussion held off the record.)

1 MR. NICHOLS: No. No further questions.

2 MR. KUCHAR: Then I think we've concluded this  
3 deposition. We appreciate your coming in here, and  
4 your civility.

5 Do you want to advise him regarding his right  
6 to review the transcript?

7 MR. NICHOLS: We would like to have the opportunity  
8 to review the transcript.

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10 (Deposition concluded at 11:31 a.m.)

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	A	Antinepotism	Bernadette
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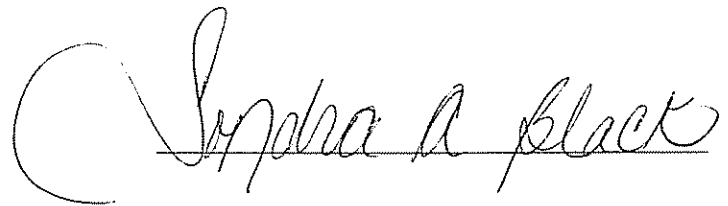
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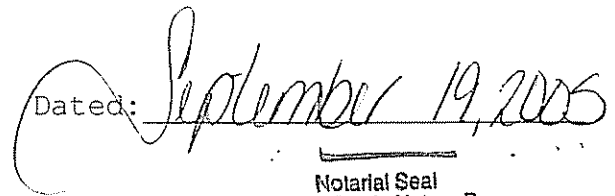
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C E R T I F I C A T I O N

I, Sondra A. Black, a Court Reporter and Notary  
Public in and for the Commonwealth of Pennsylvania, do  
hereby certify that the foregoing is a true and accurate  
transcript of my stenographic notes in the  
above-captioned matter.



Dated:



Notarial Seal  
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Waterford Twp., Erie Co.  
Commission Expires Aug  
2007  
Pennsylvania Association of Notaries